

(Added Pub. L. 100-566, §2(a), Oct. 31, 1988, 102 Stat. 2839; amended Pub. L. 103-103, §5(b), Oct. 8, 1993, 107 Stat. 1023.)

AMENDMENTS

1993—Pub. L. 103-103 struck out subsec. (a) designation and struck out subsec. (b) which read as follows: “To test voluntary leave bank programs under the provisions of this subchapter, the Office of Personnel Management shall establish a demonstration project in at least 3 Executive agencies, of which—

“(1) one such agency shall include approximately, but not less than, the equivalent of 100,000 full-time positions;

“(2) one such agency shall include approximately, but not less than, the equivalent of 25,000 full-time positions; and

“(3) one such agency shall include approximately, but not less than, the equivalent of 1,000 full-time positions.”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-103 effective as of the 120th day after Oct. 8, 1993, or such earlier date as the Office of Personnel Management may by regulation prescribe, see section 6 of Pub. L. 103-103, set out as a note under section 6331 of this title.

§ 6363. Establishment of leave banks

Each agency that establishes a leave bank program under section 6362 shall establish 1 or more leave banks in accordance with regulations prescribed by the Office of Personnel Management.

(Added Pub. L. 100-566, §2(a), Oct. 31, 1988, 102 Stat. 2839.)

§ 6364. Establishment of Leave Bank Boards

(a)(1) Each agency that establishes a leave bank shall establish a Leave Bank Board consisting of 3 members, at least one of whom shall represent a labor organization or employee group, to administer the leave bank under the provisions of this subchapter, in consultation with the Office of Personnel Management.

(2) An agency may establish more than 1 Leave Bank Board based upon the administrative units within the agency. No more than 1 board may be established for each leave bank.

(b) Each such Board shall—

(1) review and approve applications to the leave bank under section 6367;

(2) monitor each case of a leave recipient; and

(3) monitor the amount of leave in the leave bank and the number of applications for use of leave from the bank; and

(4) maintain an adequate amount of leave in the leave bank to the greatest extent practicable.

(Added Pub. L. 100-566, §2(a), Oct. 31, 1988, 102 Stat. 2839.)

§ 6365. Contributions of annual leave

(a)(1) An employee may, by written application to the Leave Bank Board, request that a specified number of hours be transferred from the annual leave account of such employee to the leave bank established by such agency.

(2) An employee may state a concern and desire to aid a specified proposed leave recipient or a leave recipient in the application filed under paragraph (1).

(b)(1) Upon approving an application under subsection (a), the employing agency of the leave contributor may transfer all or any part of the number of hours requested for transfer, except that the number of hours so transferred may not exceed the limitations under paragraph (2).

(2)(A) In any one leave year, a leave contributor may contribute no more than a total of one-half of the amount of annual leave such contributor would be entitled to accrue during the leave year in which the contribution is made.

(B) A leave contributor who is projected to have annual leave that otherwise would be subject to forfeiture at the end of the leave year under section 6304(a) may contribute no more than the number of hours remaining in the leave year (as of the date of the contribution) for which the leave contributor is scheduled to work and receive pay.

(c) The Leave Bank Board of a leave contributor may waive the limitations under subsection (b)(2). Any such waiver shall be in writing.

(d) The Office of Personnel Management shall prescribe regulations establishing an open enrollment period during which an employee may contribute leave under subsection (a) for a leave year.

(Added Pub. L. 100-566, §2(a), Oct. 31, 1988, 102 Stat. 2840.)

§ 6366. Eligibility for leave recipients

(a) An employee is eligible to be a leave recipient if such employee—

(1) experiences a medical emergency and submits an application pursuant to section 6367(a); and

(2)(A) contributes the minimum number of hours as required under subsection (b) of accrued or accumulated annual leave to the leave bank of the employing agency of such employee, in the leave year (beginning in and including any part of a leave year in which such leave bank is established) that such employee submits an application to be a leave recipient under section 6367(a); and

(B) such contribution is made before such employee submits an application under section 6367(a).

(b)(1) An employee shall contribute the minimum number of hours required under subsection (a)(2)(A), if such employee is an employee—

(A) for less than 3 years of service and contributes a minimum of 4 hours;

(B) for between 3 years and less than 15 years of service and contributes a minimum of 6 hours; or

(C) for 15 years or more of service and contributes a minimum of 8 hours.

(2) Notwithstanding the provisions of paragraph (1), the Leave Bank Board of an agency, after consultation with the Office of Personnel Management, may—

(A) reduce the minimum number of hours required under paragraph (1) for any leave year, if such Board determines there is a surplus of leave in the leave bank; and

(B) increase the number of minimum hours required under paragraph (1) for the succeed-

ing leave year, in any leave year in which the Board determines there is a shortage of leave in the leave bank.

(c) An employee shall meet the requirements of subsection (a)(2)(A) if such employee contributes the minimum number of hours as required under subsection (b) of accrued or accumulated annual leave to the leave bank with which such employee submits an application to be a leave recipient under section 6367(a).

(d) The provisions of subsection (a) may not be construed to limit the amount of the voluntary contribution of annual leave to a leave bank, which does not exceed the limitations of section 6365(b).

(Added Pub. L. 100-566, §2(a), Oct. 31, 1988, 102 Stat. 2840.)

§ 6367. Receipt and use of leave from a leave bank

(a) An application to receive contributions of leave from a leave bank, whether submitted by or on behalf of an employee—

(1) shall be submitted to the Leave Bank Board of the employing agency of the proposed leave recipient; and

(2) shall include—

(A) the name, position title, and grade or pay level of the proposed leave recipient;

(B) the reasons why leave is needed, including a brief description of the nature, severity, anticipated duration, and, if it is a recurring one, the approximate frequency of the medical emergency involved;

(C) if such Board so requires, certification from 1 or more physicians, or other appropriate experts, with respect to any matter under subparagraph (B); and

(D) any other information which such Board may reasonably require.

If a Board requires that an employee obtain certification under paragraph (2)(C) from 2 or more sources, the agency shall ensure, either by direct payment to the expert involved or by reimbursement, that the employee is not required to pay for the expenses associated with obtaining certification from more than 1 of such sources.

(b) The Leave Bank Board of an employing agency may approve an application submitted under subsection (a).

(c) A leave recipient may use annual leave received from the leave bank established by the employing agency of such employee under this subchapter in the same manner and for the same purposes as if such leave recipient had accrued such leave under section 6303, except that any annual leave and, if applicable, any sick leave accrued or accumulated to the leave recipient shall be used before any leave from the leave bank may be used.

(d) Transferred annual leave—

(1) may accumulate without regard to any limitation under section 6304; and

(2) may be substituted retroactively for any period of leave without pay, or used to liquidate an indebtedness for any period of advanced leave, which began on or after a date fixed by the employing agency of the employee

as the beginning of the medical emergency involved.

(e) Except to the extent that the Office of Personnel Management may prescribe regulations, nothing in the provisions of section 7351 shall apply to any solicitation, contribution, or use of leave to or from a leave bank under this subchapter.

(Added Pub. L. 100-566, §2(a), Oct. 31, 1988, 102 Stat. 2841.)

§ 6368. Termination of medical emergency

(a) The medical emergency affecting a leave recipient shall, for purposes of this subchapter, be considered to have terminated on the date as of which—

(1) the leave recipient notifies the Leave Bank Board in writing, that the medical emergency no longer exists;

(2) the Leave Bank Board of such leave recipient determines, after written notice and opportunity for the leave recipient (or, if appropriate, another person acting on behalf of the leave recipient) to answer orally or in writing, that the medical emergency no longer exists; or

(3) the leave recipient is separated from service.

(b)(1) The Leave Bank Board of a recipient shall, consistent with guidelines prescribed by the Office of Personnel Management, establish procedures to ensure that a leave recipient is not permitted to use or receive any transferred leave under this subchapter after the medical emergency terminates.

(2) Nothing in section 5551, 5552, or 6306 shall apply with respect to any annual leave transferred to a leave recipient under this subchapter.

(Added Pub. L. 100-566, §2(a), Oct. 31, 1988, 102 Stat. 2842.)

§ 6369. Restoration of transferred leave

The Office of Personnel Management shall establish procedures under which any transferred leave remaining to the credit of a leave recipient when the medical emergency affecting the leave recipient terminates, shall be restored to the leave bank.

(Added Pub. L. 100-566, §2(a), Oct. 31, 1988, 102 Stat. 2842.)

§ 6370. Prohibition of coercion

(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right which such employee may have with respect to contributing, receiving, or using annual leave under this subchapter.

(b) For the purpose of subsection (a), the term “intimidate, threaten, or coerce” includes promising to confer or conferring any benefit (such as an appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

(Added Pub. L. 100-566, §2(a), Oct. 31, 1988, 102 Stat. 2842.)